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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/986,662

11/09/2001

Thomas Dean Robbins

6050

22913

7590

08/06/2008

WORKMAN NYDEGGER
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

EXAMINER

LONSDERRY, HUNTER B

ART UNIT

PAPER NUMBER

2623

MAIL DATE

DELIVERY MODE

08/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/986,662

Applicant(s)

ROBBINS, THOMAS DEAN

Examiner

Hunter B. Lonsberry

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
- Page No(s)/Mail Date: ____

- 4) ☐ Interview Summary (PTO-413)
- Page No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,5 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,446,919 to Wilkins.

Regarding claim 1, Wilkins discloses a method of programming a television receiver, the receiver operable to receive a plurality of television channels, the receiver comprising an automatic tuner, the automatic tuner being operable to automatically tune the receiver to a particular channel, the particular channel corresponding to an ID code, said method (figure 4) comprising:

receiving a first broadcast television program with the receiver (receiver 100, figure 1b)22, the first broadcast

television program being received on a first channel during a first time period (300 figure 4, channel 2);

receiving a commercial (column 11, lines 29-37) corresponding to a second television program with the receiver, the commercial being received on the first channel during a second time period, the second time period being within the first time period (figure 3, column 11, lines 27-47);

receiving the ID code with the receiver, the ID code being received on the first channel during the second time period (profile command); and
activating the receiver during the second time period to extract and store the ID code; wherein the ID code comprises a differentiating portion that enables the receiver to differentiate any one of a plurality of types of ID codes from one another and an information portion for use by the automatic tuner to automatically tune the receiver to a second channel (column 11, lines 27-47, column 13, lines 57-column 14, line 43, the profile command instructs the TV when to tune to an alternate channel, and when to tune back to the first channel, and which of a plurality of channels to tune too).

Regarding claim 5, Wilkins discloses a method of transmitting (column 11, lines 27-47, column 13, lines 57-column 14, line 43) comprising:
transmitting a first program during a first time period on a first data stream (300 figure 4, channel 2), the first program comprising a first main program, a sub-program (default commercial), and a bait ID code (selection command), the sub- program being within the main program, and the bait ID code corresponding to the sub- program; and
transmitting a second program during a second time period on a second data stream(channel 5 commercial segment),
the second program comprises a second main program 220 and a capture ID code (selection command 230), the second main program corresponds to the sub-program, and the capture ID code corresponds to the bait ID code (selection command 230,

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tuning command).

Regarding claim 6, Wilkins teaches the first program and the sub-program include a first vertical blanking interval, and the bait ID code is in the first vertical blanking interval of the sub-program (column 10, lines 6-11, the VBI is monitored for selection commands), and wherein the second program includes a second vertical blanking interval, and the capture ID code is in the second vertical blanking interval (column 10, lines 6-11, the VBI is monitored for selection commands).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2-4, and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,446,919 to Wilkins.

Regarding claims 2 and 8, Wilkins discloses ID codes which include programming ID codes (column 16, lines 33-37) and capture ID codes (column 16, lines 25-31).

Wilkins fails to disclose the use of Bait ID codes and repeating ID codes.

The Examiner takes official notice that repeating ID codes and Bait ID codes are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to utilize repeating ID codes and Bait ID codes in view of KSR.

Regarding claims 3 and 9, Wilkins teaches a profile command which includes information on which channel to tune to (column 16, lines 33-37), for how long (column 15, lines 1-22).

Wilkins fails to teach a start time, and 6 types of programming ID codes.

The Examiner takes official notice that transmitting a start date (such as EPG information) and multiple sets of program ID codes (such as channel listings) are well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Wilkins to utilize start dates a multiple sets of program ID codes in view of KSR.

Regarding claims 4 and 10, Wilkins discloses transmitting ID codes.

Wilkins fails to teach the differentiating portion of the ID code being 2 bits.

The examiner takes official notice that 2 bit fields are notoriously well known in the art.

Therefore it would have been oblivious to modify Wilkins to use a 2bit differentiation in view of KSR.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hunter B. Lonsberry/
Primary Examiner
Art Unit 2623

HBL